30

Previous references.

File No. 177-06

1906-07
(Police)

Serial Nos. 1-2

Later references.

12207 Pt-3
Pol 2-13-114+c
Police 69-08 (165)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-2

Part B. for May 1907

SUBJECT.

Prosecution of Police officers

Index of contents.

From the I.G. of Police to Dir. Sec. D.O. 89/41

Suggests that Government should issue orders that no Criminal Proceedings shall be instituted against Police officers without the previous sanction of the I.G. of Police.

G. R. S. 58

To the I.G. of Police
" Dist. Magistrates
" Registrar Chief Court

No 93613-22831-5

Issues certain instructions with reference to the provisions of Sec 197 of the Criminal Procedure Code, for the guidance of Police officers and magistrates in regard to the institution of Criminal Proceedings against Police officers of and below the rank of Inspector for acts done by them in their official capacity

G.R.S. 17] 1907

GENERAL AND REVENUE SECRETARIAT.

(Police.)

NOTES.

File No. 177906

File Heading.

Prosecution of Police Officers..

From

The I. G. of Police in Mysore.

D. O. No. Dated 9. 4. 07. Received

Diary No.		Enclos.	Spare Copies.		Serial No. 1

Brief Abstract of Letter.

Suggests that Government should issue orders that no criminal proceedings should be instituted against Police officers without the previous sanction of the I. G. Police.

NOTES AND ORDERS.

Notes—First sheet.

GPB.—30,000—20-3-06.

Extract from a D. O. dated camp Cotacamund, the 15th April 1907, from K. P. Puttanna Chetty, Esquire Second Councillor to F. R. S. Carr Esq. Inspector General of Police.

As regards your suggestion that Govt should issue an order that no criminal Proceedings should be taken against the Police without the previous sanction of the Inspector General of Police, kindly let me know if there is such a rule anywhere in British India. An executive order of Government would have no avail. Legislative enactment would be necessary. I would ask you to consider the matter fully and favour me with your views and proposals. In the Hunsur Taluk case, what was the charge against the Police and by whom was it preferred? The Superintendent of Police cannot be congratulated on being ignorant of what was going on.

Copy

Extract from a D.O. dated Bangalore 18th April 1907. from F. E. b. Carr Esq., Inspector General of Police, to K. P. Puttanna Chetty, Esquire, Second Councillor.

---

(2) Prosecution of Police officers.

Madras Police Orders Nos 291-292 deal with this matter. Copies attached for reference. It will be seen from these that no Inspector can be prosecuted without the previous sanction of the I. G. P., or D. In

What objection could there be to Government issuing an executive order "requesting" Magistrates to send intimation, in the case of prosecution of constables, to the Inspector General before instituting proceedings?

Section 197 (1) C. P. C. is also very explicit. In the Hunisur case, I believe, the Magistrate prosecuted

and convicted two constables — without the previous sanction of the District Magistrate or District Superintendent of Police — in fact, without sending any intimation and as far as I know - even without the knowledge of the Taluk Inspector! whom I have now reduced to Jemadar, for such gross ignorance of what was occurring in his Taluk!

"Copy

Extract from the Madras Order Book.

Prosecution of Subordinate Police Officers.

291. Inspectors of Police who have been confirmed in their appointments by the Inspector General are not removable from office without the sanction of Government, and cannot be prosecuted as public servants without the sanction of the Inspector General of Police or the District Magistrate. For offences committed in their official capacity they are triable by the Court which has jurisdiction in the ordinary course when the case is unimportant. When the case is of importance Government should be asked to specify the Court.

292. No Police Officer below the rank of District Superintendent shall order the institution of a criminal prosecution against a Police Officer for an offence committed in his official capacity. This does not affect the right of the Magistracy or of private individuals to initiate such proceedings.

G.R.S. 12]
General and Revenue Secretariat.

Police File No. 177 of 1906

Serial No.

1380-
20.4.07

I shut up Mr Carrs D.O of 9.4.07 & the Documents connected papers on the subject of obtaining sanction to the prosecution of Police Officers & men

2 To my mind Mr Carr has entirely missed the point If Inspectors drawing less than Rs 100 are declared to be non-removable from office without the sanction of Govt, the requirements of sec 197(1) of C P Code would be fully met. I take it that Inspectors drawing Rs 100 & above are not removable from office without sanction of Govt.

3 Madras Police order No 292 x maybe addded by us Mr Carr has apparently not noted the proviso that "this does not affect the right of the Magistracy or of private individuals to initiate such proceedings"

x quoted by Mr Carr

MGCPB—20,000—1-11-04.

Serial No.

4

The suggestion made by the Dy Supt of Police in his notes of 7.4.07. and 18.4.07 appears to be impracticable. Will the Secretary kindly note on the points raised by Mr Carr ?

W. Nathan
Comptroller
20/4/07

5 Br II Submit with refs. if any. Is there any provision in the Dy Supt of Police's

Police 23/4

Sec 23/4

6 Subo. There are no references... A copy of the draft Police Regulation is put up. It does not seem to contain any provision similar to the D.S.'s proposal.

flag Y

D.S. 4.4.07 JW 25/4/07

7 Sec. 73 of the draft Police Regs requires that when any Police officer above the rank of Constable is prosecuted for an offence against the Police Regs, the trial

MGC1'B—20,000—1-11-04.

R.S. 12]
General and Revenue Secretariat.

Police File No. 177 of 190 6-07

Serial No.

shall be by a Magte of the 1st or 2nd class. There are no other provisions in the Madras Police Act which have a bearing on the point.

2 From the ~~Extract from~~ ~~Copy~~ of the Madras Police Order Book furnished by the Madras Govt, it is seen that in Madras when a Police Officer is confirmed in his appointment by the Dy. of Police, he is not removable from his office except by Govt, and it is therefore (by virtue of Sec. 197 of the Criminal Procedure Code) that Magts cannot entertain complaints against Police Officers except with previous sanction. If here also we declare that Police Officers of all classes shall not be removable except by Govt — (this means curtailing the powers of the Dy. very considerably) it will not be possible for a Magte to entertain any Cr. complaint against a Police Officer in his official capacity, except with the previous sanction of Govt or ~~some officer appointed by Govt~~ the Dy. of Police.

3 The idea that Magts should not entertain complaints against

GPB—40,000—12-5-06

G.R.S. 12J
General and Revenue Secretariat.

Police File No. 177 of 1906-07

Serial No.

Police Constables except in the previous Cadre is based on the suppression of the corps of Madras Regs. No. 292 —

See 3) See 26/4/07

10 I agree. Who not to produce the provisions of the Madras orders Nos. 291 & 292 in appendix of our own Govt? Please put up a draft.

1 in 27/4 — 30/4

11 Subd. with a draft.

39. 30.4.07 SN 1.5.07.

2 Resubmd. to Secy.

The extracts from the "Madras Orders" Book sent by the Dy. of Police do not seem to be orders of the Madras Govt, but are apparently taken from a departmental Manual. Order No If we say that no Police Supt shall be removable from his office except by order of Govt, order No 291 follows as a matter of course. Before we do anything else in the matter, it appears desirable to consult the D.G. as to whether his appre-

I perused all these papers

Note—Contn. sheet

Serial No.

able to make a restriction of his powers.
3. Order no 292 need not in any case be issued to Govt. It is an instruction to police officers & the D.G. of Police may himself issue one similar to it

H

1/5

14 I did intend to consult the D.G. of Police before an order as proposed was issued.
15 Let me have the draft which I wanted putup. I don't find it in the file.

3.5.07

16 Two drafts are putup

17 One draft will do; vide the one revised by me, which purports to be instructions issued & not to reference to " " the provisions of I.P.C. & the Cr. Pro. Code.

& this is more comprehensive than "under."

18 If the General Dept & the draft commend themselves to the Secretary I shall consult the D.G. about its adoption

5.5.07

22/V

G.P.B.—10,000—18-1-07.

G.R.S. 12]
General and Revenue
Secretariat.

Police File No. 177 of 1906-07.

7

Serial No. 14 xx 6.5.

19 I think the draft will answer the purpose. The I G of Police may be consulted.

20 The draft mixes up Cases of Inspectors drawing a salary of Rs 100 & above. I would exclude these from the scope of the proposed order as they already enjoy the privilege. The Madras Police order appears simple enough. To say that Police Inspectors appointed by Govt are not liable to removal from office without the sanction of Govt appears a Tautology.

H. H. Rutherfurd
2d Secretary
6/5/07.

21 But such a declaration is necessary for the purposes of S. 197 of the C. P. Code. 6/5

22 Done D.O. letter enclosing therein a copy of the draft proposed. 6/5

Contn. sheet

GPB—40,000—12 5-06

Copy

Police file no 177 of 06-07

T 3397
Police

Do.

Bangalore
6-5-1907

My dear Sir,

With refee to your D.O to the Dewan of the 9th April 1907, and to the Second Councillor of 18th idem. re: Prosecution of Police officers without previous sanction, I am desired to send you the enclosed copy of a draft order based on Madras Police orders No 291-292, and to enquire whether they are sufficient, or you have any alteration to suggest.

Yours Sincerely
Sd/ K.S. Chandrasekharaiyar

F.E. Carr Esqr.

Police file no-177 of 1907

G.R.S. 23]

Draft

9

File No.

Serial No.

2

Diary No. of letter replied to

Proceedings of the Government of His Highness the Maharaja of Mysore.

GENERAL AND REVENUE SECRETARIAT.

( )

~~READ.~~

, *the* 190

Date of issue —

Signed by

ORDER ~~THEREON.~~—No.

20

The following instructions are issued by Government with reference to the provisions of section 197 of the Criminal Procedure Code for the guidance of Police officers and magistrates

over

SUBJECT

in regard to the institution of Criminal Proceedings against Police officers of and below the rank of Inspector for acts done by them in their official capacity:-

(1) Police Inspectors of all grades, who have been appointed or confirmed in their appointments either by the Government or by the Inspector General of Police shall not be liable to removal from office without the sanction of the Government.

(2) No court shall take Cognizance of offences of which such Police Inspectors are accused in their official capacity except with the sanction of the Government or the Inspector General of Police or the District magistrate.

3 When the case is ~~of a heinous nature~~ unimportant, such officers may be tried by the Court which has jurisdiction in the ordinary Course; but

Police file no. 177 706

G.R.S. 27]

GENERAL AND REVENUE SECRETARIAT.

(Continuation Sheet draft form.)

a either as a witness or charge a servant whether or otherwise.

when the case is one of importance, the Government should be moved to specify under section 197(2), the Court before which the trial is to be held.

(4) No Police officer below the rank of Assistant Superintendent shall order the institution of a Criminal Prosecution against a Police officer below the rank of Inspector for an offence committed in his official capacity. This does not, however, affect the right of the magistracy or of private persons to initiate such proceedings without the sanction of any Police office

(Sd.) K. S. Chandrasekhara Aiyar
Secretary.

To The Inspector General of Police
× All District magistrate
The Registrar of the Chief Court of Mysore.

"Copy"

SW 6/8/07.

Police file no 17/406-07

12

T 2826

Bangalore.

8th May 1907.

24

My dear Sir,

Your D.O. No: 3397 dated the 6th instant.

In acknowleaging the receipt of the above with thanks, I beg to state that the instructions proposed to be issued are I think most useful and necessary, the only alteration I would suggest being the word and in place of or in para 2. This would then run as follows:-

No Court shall take cognizance of offences of which such Police Inspectors are accused in their official capacity, except with the sanction of the Government, or, the Inspector General of Police and the District Magistrate,

My reasons for suggesting the change are in no way intended to affect the right or the prestige of the Deputy Commissioner and the District Magistrate as Head of the District in ~ Police matters.

I

I only suggest that his sanction to prosecute Inspectors or other Police officers, should be with my knowledge and approval as Provincial Head of the Police. In the absence of such limitation, it is possible that prosecutions may be instituted by District Magistrates, without the knowledge, and even without the approval of the Inspector General. In the event of the latter contingency viz., the disagreement of the District Magistrate and Inspector General - the matter would of course be reported to Government for final orders.

To quote instances:-

(1) Inspector Hari Singh of Chitaldroog District was prosecuted under section 348 I.P.C. at the instance of the District Magistrate. The Inspector was placed under suspension, and after undergoing trial in two Courts for over 3 months was honourably acquitted by the Sessions Judge.

(2). Again in connection with a case of murder in the Chiknaikanhally Taluk of the Tumkur District, the District Magistrate has directed the suspension of the Police officers concerned, and has taken the matter out of the

hands

Police file no 17/406-07

12

hands of the District Superintendent and ordered an Assi tant Commissioner to undertake the inquiry into the cond of the Police. The result of this case may also be for told with a tolerable amount of certainty.

The enclosure is returned.

Yours sincerely,

K. S. Chandrasekhara Iyer Esquire, B.A., B.L.,
Secretary to the Government of
His Highness the Maharaja of Mysore,
General and Revenue Departments.

Serial No.

25

Submitted to the Secretary -

If the Inspectors are not to be removed without Govt. sanction, there provision will have been made analogous to that of Talukdari Sheristadars; the last grade Sheristadars get Rs40 like the last grade Insps -

by
8/5 -

26

A clean copy of the draft is put up with ~~two~~ several alterations. ~~The first~~ is intended to meet the D. G's suggestions, the other to define what "cases of importance" are -

2) With reference to the last portion of the Second Commissioner's note of 6-5-07, I may observe that it is necessary for the purpose of S. 197 (1) of the Cr. Pro. Code to make an express declaration that Police Inspectors shall not be liable to removal without the sanction of Govt. The statement, I submit, is not altogether tautologous, as the power to remove, though a concomitant of the power to appoint, is not identical with the latter; & it is possible to conceive

Note—Contn. sheet

G.R.S. 1

General and Revenue Secretariat.

Police File No. 177 of 1906

Serial No.

of circumstances in which the two powers might be vested in different authority

Section 22(1)

11.5.07

28

13/5

may be approved.

14/5

4762 14/5/07

13/5/07

14.5.07

14/5

Norr—Contn. sheet

GPB—40,000—12 5-06

Submitted to His Highness.

29 In connection with the recent prosecution of Police Officers in Mysore, the Inspector General of Police brings to notice the growing tendency on the part of the public to intimidate the Police in the execution of their duties by lodging criminal cases against them, and suggests the issue of definite orders prohibiting the prosecution of Police officers without the previous sanction of the Inspector General of Police. It is therefore proposed to issue orders on the subject with reference to the provisions of section 197 of the Criminal Procedure Code, which contains the law as regards the prosecution of any Judge or public servant.

Paper under disposal

Extract put up C

30 The accompanying draft order contains instructions based upon those in the Madras Police orders for the guidance of Police officers and Magistrates in regard to the institution of Criminal Proceedings against Police officers of and below the rank of Inspectors for acts done by them in their official capacity. To meet the requirements of Section

Encl to Paper under disposal

16

197(1) of the Criminal Procedure Code, an express declaration has also been made to the effect that Police Inspectors of all grades shall not be liable to removal from office without the sanction of Government

3) The draft order may be approved

21/5/80

17

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

23.5.07 -905-

Draft of an order laying down instructions regarding the institution of criminal proceedings against police Officers for acts done by them in their official capacity.

875

867 / 21.5.07

Order.

32 Approved

~~K R W~~

25/5/07

5 Dec 4/6/07

27/5/1907

33 Jones 30.5.07

Ku 30/5.

G.R.S. 12]

General and Revenue Secretariat.

Police File No. 177 of 190 6-07

18

Serial No. 2

To

The I. G. of Police, the Dt. Magistrate & the Registrar

Chief Court no. J3613-22 D/31-5-07

Draft issued

1/6/07

J 2733

Bangalore

9 – 4 – 07

~~file no. 1271~~

file no. 1

My dear Mr. Madhava Rao

I am glad to say that Mr. Dhoraiswamy has been acquitted by the Sessions Judge in the alleged Mysore Bottle case.

The case in my opinion was nearly wholly concocted so as to intimidate the Police Department – the proper investigation into

In the Chowdamma Kuffa
Case I would like
to suggest that Govt
should issue definite
orders, that in future no
criminal proceedings shd
be undertaken against
the Police, without the
previous sanction of the
Inspr Genl of Police.

In a case the Station
in the Mysore Dist (Nanje
Taluk) some constables
were prosecuted

connected by the
Magt without the
knowledge of even the
Supt. Police or the Magt.
Three men had been made
to stand in the dock in
this Court-martial, to
be prosecuted & convicted
Handy the way to up
hold the prestige of
Govt!
Again the Sessions Judge
of Bangalore has lately

J 2733

Bangalore

9 – 4 – 09

~~Telegram~~ Telegram

My dear Mr. Madhava Rao,

I am glad to say that Messrs. Srinivasaiyer, & Co. – have been acquitted by the Sessions Judge in the alleged Mysore Bottle case

The case in my opinion was nearly wholly concocted so as to intimidate the Police & prevent the proper investigation into

evidence of this he
was no right- Whatever
to incorporate his pre-
sumptions into a public
document- = thereby
absolutely unnecessarily
blackening the face
of Government- —
I have protested
about this to the Chief
Court- with the
foregone conclusion
that the Chief Court-

Stick up for this one
man —
All these facts I bring
to your notice, to shew
that this is a ground
for finding another part
of Cowes, to intimidate
& bully the Police
in the execution of
their duty, to such
an extent that it
will be difficult

in future to ex-
ist Police to act in
a fearless straight-
forward manner

Yours truly

F. C. Ames

Proceedings of the Government of H.... the Maharaja of Mysore.

Order No. ℊ 3613 - 22/Police 177806-2

Dated Bangalore, 31st May 1907.

The following instructions are issued by Government with reference to the provisions of section 197 of the Criminal Procedure Code, for the guidance of Police officers and Magistrates in regard to the institution of Criminal proceedings against Police officers of and below the rank of Inspector for acts done by them in their official capacity:-

1. Police Inspectors of all grades, who have been appointed or confirmed in their appointments either by the Government or by the Inspector General of Police, shall not be liable to removal from office without the sanction of the Government.

2. No court shall take cognizance of offences of which such Police Inspectors are accused in their official capacity except with the sanction of the Government, or the Inspector General of Police, or the Deputy Commissioner with the concurrence of the Inspector General.

3. When the case is unimportant, such officers may be tried by the court which has jurisdiction in the ordinary course; but when the case is of one of importance (either as involving a charge of a serious offence or otherwise), the Government should be moved to specify under section 197(2) the court before which the trial is to be held.

4. No Police officer below the rank of Assistant Superintendent shall order the institution of a criminal prosecution against a Police officer below the rank of Inspectors for an offence committed in his official capacity. This

does not, however, affect the right of the Magistracy or of private persons to initiate such proceedings without the sanction of any Police officer.

13/5/07

Secretary to Government.

To

The Inspector General of Police.
All District Magistrates.

The Registrar of the Chief Court of Mysore.

Note: The order in the minutes type three copies.

31/5/07